

HOUSTON DIVISION

Civil Action No. 13-cv-02443

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automatic stay or asking this Court to exercise its discretion to stay the case, those factors are not implicated at this juncture of the case – *i.e.*, where a motion to dismiss is pending and discovery is stayed. Accordingly, while the Individual Defendants are not presently seeking to extend the automatic stay or otherwise stay the claims against them, they reserve the right to do so at a later date.

B. Plaintiffs’ second consecutive last-minute request to delay oral argument and to amend the Complaint should be denied

This case was filed 15 months ago. In that time, Plaintiffs have filed three complaints and are currently seeking leave to file a fourth. These repeated amendments and requests have required the Individual Defendants fully to brief two motions to dismiss and an opposition to motion for leave to file a supplemental or amended complaint. Now, Plaintiffs seek leave to amend yet again.

Plaintiffs followed this same pattern before the last scheduled oral argument (set for September 26, 2014), seeking to delay it by filing a motion to supplement or amend, notice of which they provided only 10 business days in advance. Remarkably, after yet another round of briefing on the motion which remains pending, Plaintiffs are now attempting the same tactic again.

Plaintiffs informed the Individual Defendants three business days before the currently scheduled hearing of their latest anonymous witness and their intent to seek leave to amend. Indeed, when counsel met and conferred just one day earlier about the response to the Court’s November 14 Order, Plaintiffs did not give any indication of their intent to amend. Plaintiffs do not state when they obtained their new information, or why they could not have obtained it earlier, only that they did so “[s]ubsequent to filing the Motion for Leave” – *i.e.*, two months ago

on September 24, 2014. All of this comes *months* after Plaintiffs had already filed the Second Amended Complaint in lieu of responding to the Individual Defendants' first fully brief motion to dismiss.

Moreover, this proposed new pleading appears to be an effort to plead an entirely new case, or at least new theory of this case, containing different allegations against a different set of defendants covering a different class period. At some point Plaintiffs' amend-and-delay tactics must be stopped. The Individual Defendants are entitled to have their challenges to the pleading tested according to the Federal Rules and the PSLRA.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served electronically on all counsel of record on this 23 day of November, 2014.

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